



COUNCILMEMBER DONNA FRYE

City of San Diego

Sixth District

MEMORANDUM

DATE: July 8, 2002

TO: Mayor and City Councilmembers

FROM: Councilmember Donna Frye

SUBJECT: Item 333-SeaWorld

Please find the following motions regarding SeaWorld's proposed project. I will be moving the City Manager's recommendations with some clarifications and modifications. The issues are separated by Subitems A, B, and D to make it easier to follow. I am not prepared to make a motion on Subitem C and will look to one of my colleagues to make a motion on that issue.

I. ITEM-333: Subitem A: (R-2003-22)

I will be moving to adopt the City Manager's recommendations regarding the certification of the Local Coastal Plan with de minimis modifications to the SeaWorld Master Plan for clarification and correction with the California Coastal Commission and City Council actions as follows:
(deletions are in strike-out and additions are underlined):

1. On Page E-2, under Development Criteria, the following deletions/modifications shall be made to the first and second bullets:

~~No more than 25% of the theme park area can eventually be developed to heights exceeding 30 feet, and the majority of that must be 60 feet (existing tree level on the park's west side).~~

~~A maximum of 8.77 acres (10% of the theme park area) scattered throughout the entire theme park area can be redeveloped for attractions above 60 feet. Bulk plane setbacks will be incorporated 25-75 feet from the shoreline and 20 feet from all other park boundaries all new development shall be setback behind a bulk plane line beginning at the perimeter landscaped area (20 feet from the perimeter on the eastern and southern leasehold perimeter boundaries).~~

2. On Page I-1, under Purpose and Needs, the following modifications shall be made to the third sentence in the second paragraph:

In 1998, SeaWorld sponsored, and San Diego voters approved (by a vote of 50.7 percent to 49.3 percent) the SeaWorld Initiative to amend the City's Coastal Height Overlay Zone allowing SeaWorld to propose improvements within the SeaWorld leasehold to half the height of the SeaWorld tower (160 feet).

3. On Page I-1, under Planning Process, the following modifications shall be made to the first paragraph:

In November 1998, the voters of San Diego approved the SeaWorld Initiative, Proposition D which amended the City of San Diego Municipal Code to allow SeaWorld to propose development up to a maximum height of 160 feet on the SeaWorld leasehold in Mission Bay Park.

4. On Page I-2, under Community Outreach and Issues Analysis, the first sentence under the second bullet shall be amended to the following:

Voter approval of the development height limit change allowed the entire leasehold to be ~~developed~~ considered for development with structures up to 160 feet in height.

5. On Page I-3, under the bullet "Potential impacts to water quality in Mission Bay", the paragraph needs to be corrected; it is a repeat of the text on Page I-2 under the Noise impacts paragraph.
6. On Page I-3, under the last bullet (The appropriateness of a new hotel in Mission Bay Park...) the following shall be added as the last sentence:

SeaWorld may not submit a development permit application for construction of the hotel prior to July 10, 2001, and will provide the City of San Diego with 90 days written notice prior to submitting any application for a hotel development.

7. On Page II-4, under Existing Facilities and Entitlements, an asterisk shall be added next to the words "marina expansion and hotel" in the first paragraph, second sentence, and the following footnote added:

*The Coastal Commission has not reviewed or certified the 1985 SeaWorld Master Plan as part of the certified Local Coastal Program, nor was that plan incorporated into the Mission Bay Park Master Plan as certified by the Commission in 1995. Therefore, any entitlements embodied in that plan are not recognized, and have not been endorsed, by the California Coastal Commission.

8. On Page II-6, under Area 2: Guest Parking, the following sentence shall be added to the end of the paragraph:

The design of the parking area shall comply with the American with Disabilities Act.

9. On Page II-6, under Area 3: Administration and Support, the last sentence shall be amended as follows:

A reserved parking/carpool lot, with 142 parking spaces, is also located in the south portion of the area.

10. On Page II-7, under area 4: SeaWorld Marina, the following shall be added as the last sentence in the first paragraph:

There are 65 parking spaces.

11. On Page II-7, under Area 5: Perez Cove Shoreline, the following sentence shall be amended to read:

The entitlement is retained in this Master Plan Update and is included as a proposed future development though ~~it cannot be constructed prior to July of 2001~~ SeaWorld may not submit a development permit application for the construction of the hotel prior to July 10, 2011.

12. On Page II-10, under Proposed Conceptual Development Programs, an asterisk shall be added next to the words “entitled Marina and Hotel” and the following footnote added:

*The Coastal Commission has not reviewed or certified the 1985 SeaWorld Master Plan as part of the certified Local Coastal Program, nor was that plan incorporated into the Mission Bay Park Master Plan as certified by the Commission in 1995. Therefore, any entitlements embodied in that plan are not recognized, and have not been endorsed, by the California Coastal Commission.

13. On Page II-22, under Bicycle/Pedestrian Path Enhancement, Design Criteria, the sentence under the fourth bullet shall be deleted because the guideline from the Mission Bay Park Master Plan applies to the waterfront, and site M-1 is not located along the water.

~~In constrained narrow areas, the landscaped median may be dispensed; in such cases the overall width of the path should not be less than 16 feet, and a painted line should separate the footpath from the bikeway.~~

14. On Page II-26, under Special Projects, the following shall be added as the third bullet under Design Criteria:

Superfluous or excessive ornamentation and finishes shall be avoided.

15. On Page II-28, under Hotel and Marina Expansion (Areas 4 and 5), an asterisk shall be placed after the words “Hotel and Marina Expansion) and the following footnote added:

*SeaWorld recognizes that any entitlements identified in the 1985 SeaWorld Master Plan were granted by the City of San Diego only. The Coastal Commission did not review or certify the 1985

SeaWorld Master Plan, and is in no way bound by any of its provisions. Moreover, SeaWorld recognizes the need to re-evaluate each project at the time it is proposed taking into consideration traffic issues and public recreational needs.

Also on Page II-28, the last sentence in the first paragraph shall be modified as follows:

Construction of the hotel shall not begin before July 10, 2011. The development permit application for the hotel may not be submitted prior to July 10, 2011.

16. On Figure III-2, the text shall be modified to reflect the 75-foot shoreline setback and ensure consistency with the California Coastal Commission and City Council modifications.

17. On Page IV-1, under Design Guidelines, the following modification shall be made to the last sentence in the first paragraph:

Future projects at SeaWorld ~~should~~ shall be assessed to meet specific guidelines for sustainability and conservation.

18. On Page A-7, under Hotel, the following modification shall be made to the last sentence in the second paragraph:

A development permit application seeking approval for the ~~Construction of the hotel shall not begin be submitted before July 10, 2011, although SeaWorld may seek and obtain all necessary approvals prior to that date.~~

19. That the following modifications be made to Resolution No. R-2003-22, paragraphs four and six:

WHEREAS, the Coastal Commission approved certifying the LCP Amendment subject to thirty-six suggested modifications that, the Coastal Commission states “address public views and the impact of fireworks, remove specific height allocations for new development, address parking requirements and transit opportunities over time, improve shoreline access both within and outside the [SeaWorld] leasehold and provide for enhanced public recreational opportunities,” require the City’s commitment to develop a Capital Improvements Project (CIP) for public improvements at South Shores and on Fiesta Island within two years of effective certification, include the “use of developer fees as an option to provide funding necessary to mitigate the increasing public burdens brought about by commercial redevelopment, intensification and expansion,” insert a Water Quality Component in the Mission Bay Park Master Plan, and ensure that SeaWorld and the City recognize that any entitlements identified in this plan, such as the hotel and marina, were granted by the City of San Diego only, and not the Coastal Commission.

BE IT FURTHER RESOLVED, that the SeaWorld Master Plan Update, including associated amendments to the Progress Guide and General Plan, Mission Bay Park Master Plan, and Local Coastal Program, as approved by the City Council on July 10, 2001, pursuant to Resolution No. R-295139, are further amended and revised to include the Coastal Commission suggested modifications

and the City Council modifications, as approved by the City Council on July 9, 2002, pursuant to Resolution No. *****.

II. Item-333-Subitem B (R-2003-48)

I will be moving the following modifications to the proposed SeaWorld lease amendments, including the adoption of criteria for the determination of whether an attraction within the theme park, Area 1, is in compliance with the 75 percent requirement regarding significant education, marine animal, research, and conservation elements:

1. On Page 4, Article XXXII, GENERAL DEVELOPMENT PLAN, under Subparagraph "C", the following shall be added as (vii):

LESSEE agrees to provide the City with yearly attendance figures to assist the City and LESSEE in determining when the traffic impact thresholds from the Premises are attained or exceeded, and to help ensure that the traffic mitigation measures identified in the EIR and MMRP are carried out in a timely manner.

2. On Page 5, Article XXXII, GENERAL DEVELOPMENT PLAN, under Subparagraph "H", the existing text (shown in strikeout) shall be deleted in its entirety and the following new text (shown in underline) shall be added in its place:

~~Not more than 25% of the Premises shall exceed 30 feet in height. LESSEE also agrees that any and all development and redevelopment within Area 1, as designated in the Development Plan, shall be subject to and shall comply with the following height limitations:~~

Height	Acreage	% of Area
31-60 feet	13.1 acres	15%
61-100 feet	6.1 acres	7%
101-130 feet	1.8 acres	2%
131-160 feet	0.88 acres	1%

LESSEE agrees that the Premises shall not be used to rent, sell or lease personal watercraft.

3. On Page 5, Article XXXII, GENERAL DEVELOPMENT PLAN, under Subparagraph "I", the following modifications shall be made :

A minimum of 75 % of LESSEE's total attractions within Area 1, the Theme Park, as designated in the Development Plan in Table II-1 and consisting of 80.7 acres of land and 7 acres of water, shall include significant education, animal, research, and/or conservation related elements. Within the SeaWorld Theme Park, some but not all of the attractions existing as of the date of this amendment, reflect the dominant marine animal theme and the primary emphasis areas of ~~entertainment,~~ education, research, and/or conservation.

Within Area 1, the SeaWorld Theme Park, an education, marine animal, research and/or conservation element in a larger, single attraction shall be considered "significant" if in the reasonable opinion of the City Manager (i) the education, animal or conservation element could function as a separate exhibit, independent of the larger attraction into which it is incorporated, and (ii) the education, animal or conservation element imparts information and knowledge about the animal and/or its environment an attraction's primary emphasis consists of an educational, marine animal, research and/or conservation theme, consistent with the criteria adopted by the City Council and appended to the SeaWorld lease and SeaWorld Master Plan Update.

4. On Page 5, Article XXXII, GENERAL DEVELOPMENT PLAN, under Subparagraph "K", the following modifications shall be made:

LESSEE may not submit a development permit application for construction of the 300-room, 30-foot hotel identified in the Development Plan prior to July 10, 2011. LESSEE agrees to give the City ninety (90) days written notice prior to the submittal of any applications for development of the hotel, and is aware that the City Council will schedule a public hearing to be held prior to submittal of any such development permit application. City and LESSEE agree to negotiate in good faith any amendment to the lease necessary for the development of a hotel on the premises. LESSEE recognizes that the California Coastal Commission has not reviewed or certified the 1985 SeaWorld Master Plan as part of the certified Local Coastal Program, nor was that plan incorporated into the Mission Bay Park Master Plan as certified by the Commission in 1995. Therefore, any entitlements for the hotel embodied in that plan are not recognized by the California Coastal Commission.

5. On Page 6, Article XXXII, GENERAL DEVELOPMENT PLAN, under Subparagraph "L", the following shall be added:

LESSEE's fireworks displays are permitted only from the "fireworks barge" and shall be limited to a maximum of one hundred fifty (150) nights per year. LESSEE agrees to relocate the fireworks barge eastwardly three-fourths mile toward South Shores from its [current] approved location from April 1 to September 15 of each year for the least tern nesting season. LESSEE agrees to implement an expanded monitoring program during the next five years to determine potential adverse impacts of fireworks on both environmental resources and public recreation, and submit on a yearly basis the monitoring results to the California Coastal Commission, San Diego Regional Water Quality Control Board, National Marine Fisheries Service, U.S. Fish and Wildlife Service, the California Department of Fish and Game, and the San Diego City Council. LESSEE agrees that at the end of the first year, it will present its findings to the California Coastal Commission, the San Diego City Council and the above agencies for review and possible revisions to the monitoring program. LESSEE also agrees to increase the area of clean-up on Fiesta Island beyond the shoreline berm, proceeding as far inland as necessary to remove all firework debris the morning after each fireworks show.

6. That the fifth paragraph of Resolution No. R-2003-48 be modified as follows:

WHEREAS, the City and Lessee have negotiated mutually acceptable terms for amendment to

the Lease to address issues outlined in the Resolution and in the California Coastal Commission and City Council suggested modifications to the LCP amendment, including but not limited to 1) elimination of a ~~substantial~~ any and all rent credits previously available to Lessee, 2) Lessee's prepayment of traffic mitigation funds, 3) Lessee's financial contribution to a future transit station on the Premises, 4) timing for submittal of a development permit application for future proposed development of a 300-room, 30-foot hotel on the Premises, 5) regulation of fireworks displays by Lessee, and an increased fireworks monitoring and reporting program, 6) the elimination of the ability to lease, rent, or sell personal watercraft of the Premises, 7) the requirement that 75% of the Theme Park, Area 1, shall contain significant education, marine animal, research and/or conservation elements, 8) providing the City with annual attendance figures; NOW, THEREFORE....

7. That for the purposes of determining the increase in value due to the Substantial Change in Entitlements in the SeaWorld lease, the City Council shall hold a public hearing before January 9, 2003 where the City Manager shall provide a complete analysis of the existing SeaWorld lease provisions, including recommendations related to a reasonable rent increase.

III. Subitem-D: (R-2003-60)

1. I move the adoption of a Resolution certifying that upon receipt of written notification from SeaWorld of its intent to submit a development permit application for ~~development of a 300-room, 30-foot~~ high hotel on the premises, the City Council shall schedule a public hearing to be held prior to submittal of any such development permit application, the purpose of which shall include, but not be limited to, a discussion of hotel related issues, an amendment to the Local Coastal Program due to the fact that the California Coastal Commission does not recognize the hotel as an entitlement as part of this LCP Amendment and an economic feasibility study.

2. Modify the existing paragraphs two and three of Resolution No. R-2003-60 to state:

Whereas, the Lease requires that SeaWorld provide the City with 90 days written notice prior to submitting any application for development of a 300-room, 30-foot hotel on the leased premises, and SeaWorld cannot submit a development permit application prior to July 10, 2011, NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of San Diego, that upon receipt of written notification from SeaWorld of its intent to submit a development permit application for ~~development of a 300-room, 30-foot~~ hotel on the premises, the City Council shall schedule a public hearing, separate from the hearing required as part of the Tier 2 review process for the hotel, to be held prior to submittal of any such development permit application, the purpose of which public hearing shall include, but not be limited to, a discussion of hotel related issues, an amendment to the Local Coastal Program Amendment 2-2001-C and an economic feasibility study.